

REMARKS/ARGUMENTS

Applicant has carefully reviewed and considered the Office Action mailed on February 8, 2005, and the references cited therewith.

Claims 1, 4, 10, 12, 18, 20, 26, and 28 are amended, no claims are canceled, and no claims are added; as a result, claims 1-2, 4-5, 7-10, 12-13, 15-18, 20-21, 23-26, 28-29, and 31-33 are now pending in this application.

Applicant respectfully submits that claims 1, 4, 10, 12, 18, 20, 26, and 28 do not introduce any new subject matter and are intended to cover additional claimable subject matter fully supported by the originally filed specification.

Information Disclosure Statement

Applicant respectfully requests that a copy of the 1449 Form, listing all references that were submitted with the Information Disclosure Statement filed on April 9, 2001, marked as being considered and initialled by the Examiner, be returned with the next official communication.

§103 Rejection of the Claims

Claims 1-2, 4-5, 7, 9-10, 12-13, 15, 17-18, 20-21, 23, 25-26, 28-29, 31, and 33 were rejected under 35 USC §103(a) as being unpatentable over Hines (U.S. Patent No. 6,329,758) in view of Murphy (U.S. Patent No. 6,031,624).

The Hines reference did not include a method of "pinging the content source to calculate a data transfer speed," according to the Examiner. Therefore, the Murphy reference was combined with Hines because, as the Examiner stated on page 3, lines 19-21, of the February 8, 2005, Office Action: "Murphy fully describes the operation of "pinging" i.e. the transmission of data from the content source and acknowledgment of receipt by the printer."

Contrary to the preceding description, Applicant's use of the verb "to ping," incorporated from associated dependent claims into elements of amended independent claims 1, 10, 18, and 26, refers to a different action. As written on page 7, lines 27-29, of the application in referring to Figure 3, "[T]he printing logic 149 pings the server 106 and calculates a data transfer speed between the system 100 and the server (block 242)." On lines 21-22 of the same page is written, "Preferably, the

steps of Figure 3 are executed before the system 100 begins receiving data from the remote content source . . .”

Applicant intends to convey that pinging is a request from the system 100 to the source of information, enabling the system 100 to determine the upcoming data transfer rate between the system and the source in order to facilitate setting a data block size prior to its receipt. Pinging does not involve the transfer of print data to the printer as described in Murphy (Col. 13, lines 26-32), nor is it related to the printer acknowledging a request by the system for confirmation of data receipt. Simply put, pinging is the system requesting information from the separate content source.

In column 8, lines 6-12, the Murphy reference recites:

[T]he host computer sends a “packet header” at the beginning of each packet of print data that is being sent to printer 10. As part of this packet header, a variable named “Packet_Data_Size” is sent to the printer, which informs the printer 10 of the quantity of print data that will be contained in the instant packet of print data that will immediately follow.

In its Abstract, the Murphy reference describes as follows how the decision is made that determines the size of the data block to be buffered by the printer:

The printer is capable of making this “data size” to be buffered decision without any assistance from the host computer that is sending the print job to the printer – all the host need send is the standard page header information that all host computers send when transmitting a rasterized print job to a printer.

The Murphy reference Abstract further recites:

[A]s each packet is received, stored and acknowledged by the printer before another packet is sent by the host, the amount of time for all this to occur for each packet is analyzed to calculate an estimate of the approximate data transfer rate of the communications link . . .
[emphasis added]

The Examiner appears to equate the estimated data transfer rate between the host computer and the printer of Murphy with the actual data transfer rate calculated between the system and a separate content source in the present application.

Applicant submits that calculating an estimate of the approximate data transfer rate between the host computer and the printer in order to determine the data buffer size, which is premised on the standard page header information, is not equivalent to

calculating an actual data transfer rate between the system and a separate content source (e.g., pinging as claimed by the Applicant).

Moreover, the Murphy reference appears to disclose and claim its method for determining an appropriate data buffer size absent communication with or assistance from the host computer as a means of saving time in the printing process. That is, Murphy explicitly teaches away from the host computer pinging a separate content source to calculate a specific data transfer rate. (See MPEP 2145). In addition, modifying the Murphy reference to incorporate the methods described in the present application would change its principle of operation. (See MPEP 2143.01).

Because the Murphy reference both teaches away from, and would have its principle of operation defeated by, the methods claimed in the present application, its application is improper in the present 103 rejection. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejections of independent claims 1, 10, 18, and 26, as well as those claims that depend therefrom.

Claims 8, 16, 24, and 32 were rejected under 35 USC §103(a) as being unpatentable over Hines (U.S. Patent No. 6,329,758) in view of Murphy (U.S. Patent No. 6,031,624) as applied to claims 1, 10, 18, and 26 above, and further in view of Cavill, et al. (U.S. Patent No. 6,003,069).

For the reasons provided above, Applicant believes that independent claims 1, 10, 18, and 26, as amended, are in condition for allowance, even in view of Cavill, et al. That is, the Cavill reference does not cure the above described deficiencies with the Hines and Murphy references. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 103 rejections of dependent claims 8, 16, 24, and 32.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Charles F. Moore at (360) 212-8369 to facilitate prosecution of this matter.

At any time during the pendency of this application, please charge any additional fees or credit overpayment to the Deposit Account No. 08-2025.

CERTIFICATE UNDER 37 CFR §1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS AMENDMENT Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 6th day of May, 2005.

Sarah L. Reinhard
Name

Sarah L. Reinhard
Signature

Respectfully Submitted,
Mark E. Boettcher, et al.

By their Representatives,
BROOKS & CAMERON, PLLC
1221 Nicollet Avenue, Suite 500
Minneapolis, MN 55403

By:

Edward J. Brooks III
Edward J. Brooks III
Reg. No. 40,925

Date:

5/6/2005